

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**OMAR VALDEZ,  
No. R03472,**

**Petitioner,**

**vs.**

**CIVIL NO. 14-00936-DRH**

**KIMBERLY BUTLER,**

**Respondent.**

**MEMORANDUM AND ORDER**

**HERNDON, Chief Judge:**

Petitioner Omar Valdez is currently incarcerated in Menard Correctional Center. He was convicted in 2007 of four counts of first degree murder, for which he was sentenced to concurrent 60-year terms of imprisonment. See *People v. Valdez*, Case No. 04-C4-40215 (Cir. Ct. Cook Co., Ill. 2007). Valdez brings this habeas corpus action pursuant to 28 U.S.C. § 2254 to challenge the constitutionality of his conviction and sentence.

Relying upon his brief on direct appeal (Doc. 1-1, pp. 38-57) and other supporting documentation, Valdez asserts the following errors:

1. There was not probable cause for his arrest;
2. His guilt was not proved beyond a reasonable doubt;
3. It was error to deny his motion for a new trial; and
4. His 60-year sentences were excessive.

A preliminary review of the petition indicates that all grounds for relief have been exhausted through the Illinois courts, including a petition for discretionary review by the Supreme Court of Illinois.

There is insufficient information before the Court upon which to conclude that dismissal at this preliminary stage pursuant to Rule 4 is appropriate. Therefore, Respondent Butler will be required to respond or otherwise plead.

Finally, the Court notes, as should Petitioner and Respondent, that Petitioner, who has been denied pauper status, has yet to pay the required \$5.00 filing fee. The deadline for payment is due **October 6, 2014** (Doc. 6), and failure to pay will likely result in the dismissal of the petition,

**IT IS HEREBY ORDERED** that Respondent shall answer the petition or otherwise plead within thirty days of the date this order is entered. This preliminary order to respond does not, of course, preclude the State from making whatever waiver, exhaustion or timeliness it may wish to present. Service upon the Illinois Attorney General, Criminal Appeals Bureau, 100 West Randolph, 12<sup>th</sup> Floor, Chicago, Illinois 60601 shall constitute sufficient service.

**IT IS FURTHER ORDERED** that pursuant to Local Rule 72.1(a)(2), this cause is referred to United States Magistrate Judge Clifford J. Proud for further pre-trial proceedings.

**IT IS FURTHER ORDERED** that this entire matter be **REFERRED** to a United States Magistrate Judge for disposition, as contemplated by Local Rule


72.2(b)(2) and 28 U.S.C. § 636(c), *should all the parties consent to such a referral.*

Petitioner is **ADVISED** of his continuing obligation to keep the Clerk (and each opposing party) informed of any change in his whereabouts during the pendency of this action. This notification shall be done in writing and not later than seven days after a transfer or other change in address occurs.

**IT IS SO ORDERED.**

**September 12, 2014**

Digitally signed  
by David R.  
Herndon  
Date: 2014.09.12  
13:38:00 -05'00'

The image shows a digital signature in blue ink that reads "David R. Herndon". The signature is written over a circular seal. The seal features an eagle with a shield, holding an olive branch and arrows, with a constellation of stars above its head. The text "UNITED STATES DISTRICT COURT" is arched over the top of the seal, and "SOUTHERN DISTRICT OF NEW YORK" is arched along the bottom.

**Chief Judge  
United States District Court**